

AMENDED IN ASSEMBLY MARCH 19, 2009  
AMENDED IN ASSEMBLY FEBRUARY 23, 2009  
CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 23**

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**Introduced by Assembly Member Jones** *Members Jones and Fletcher*  
(Principal coauthor: Senator Alquist)

December 1, 2008

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~~An act to amend Section 14011.16 of, to amend and repeal Section 14005.25 of, and to repeal Section 14011.18 of, the Welfare and Institutions Code, relating to Medi-Cal. An act to amend Sections 1366.20, 1366.21, 1366.22, 1366.24, and 1366.25 of the Health and Safety Code, and to amend Sections 10128.50, 10128.51, 10128.52, 10128.54, and 10128.55 of the Insurance Code, relating to health care coverage.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 23, as amended, Jones. ~~Medi-Cal: continuous eligibility. Cal-COBRA: premium assistance.~~

*Existing federal law, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), requires group health plans providing coverage to employers of 20 or more employees to provide former employees with continuation of benefits, as specified. Existing federal law, the American Recovery and Reinvestment Act of 2009, provides specified premium assistance under COBRA and state programs that provide comparable continuation coverage for certain assistance eligible individuals, as defined.*

*Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans*

*by the Department of Managed Health Care and makes a willful violation of that act a crime. Existing law also provides for regulation of health insurers by the Department of Insurance. Existing law, the California Continuation Benefits Replacement Act (Cal-COBRA), requires health care service plans and health insurers providing group coverage to employers of 2 to 19 employees to offer continuation of that coverage for a specified period of time to persons who become ineligible for that coverage, as specified.*

*This bill would require health care service plans and health insurers, among others, to provide notice of the availability of premium assistance under the federal American Recovery and Reinvestment Act of 2009 to individuals eligible for that assistance, as specified, and would make other conforming changes to allow those individuals to receive Cal-COBRA coverage with that premium assistance. The bill would authorize the Director of Managed Health Care and the Insurance Commissioner to adopt emergency regulations in the event that any federal assistance is or becomes available to persons eligible for Cal-COBRA.*

*Because a willful violation of these requirements would be a crime, the bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which basic health care services are provided to qualified low-income persons. The Medi-Cal program is partially governed and funded under federal Medicaid provisions.~~

~~Existing law, until January 1, 2012, requires the department, subject to the availability of federal financial participation, to exercise a federal option to expand continuous eligibility to children 19 years of age and younger for 6 months, after which date the continuous eligibility period shall be from the date of a determination of eligibility to the earlier of either the end of a 12-month period following the eligibility determination or the date the child exceeds 19 years of age.~~

~~This bill would eliminate the provisions limiting continuous eligibility to 6 months, would make those provisions that become operative on~~

~~January 1, 2012, applicable commencing January 1, 2010, and would make conforming changes.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 1366.20 of the Health and Safety Code*  
2     *is amended to read:*

3     1366.20. (a) This article shall be known as the California  
4     Continuation Benefits Replacement Act, or “Cal-COBRA.”

5     (b) It is the intent of the Legislature that continued access to  
6     health insurance coverage is provided to employees, and their  
7     dependents, of employers with 2 to 19 eligible employees who are  
8     not currently offered continuation coverage under the Consolidated  
9     Omnibus Budget Reconciliation Act of 1985.

10    (c) *It is the intent of the Legislature that any federal assistance*  
11    *that is or may become available to qualified beneficiaries under*  
12    *this article be effectively and promptly implemented by the*  
13    *department.*

14    (d) *The director may adopt emergency regulations to implement*  
15    *this article in accordance with Chapter 3.5 (commencing with*  
16    *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*  
17    *Code by making a finding of emergency and demonstrating the*  
18    *need for immediate action in the event that any federal assistance*  
19    *is or becomes available to qualified beneficiaries under this article.*  
20    *The adoption of these regulations shall be considered by the Office*  
21    *of Administrative Law to be necessary to avoid serious harm to*  
22    *the public peace, health, safety, or general welfare.*

23    *SEC. 2. Section 1366.21 of the Health and Safety Code is*  
24    *amended to read:*

25    1366.21. The definitions contained in this section govern the  
26    construction of this article.

27    (a) “Continuation coverage” means extended coverage under  
28    the group benefit plan in which an eligible employee or eligible  
29    dependent is currently enrolled, or, in the case of a termination of  
30    the group benefit plan or an employer open enrollment period,  
31    extended coverage under the group benefit plan currently offered  
32    by the employer.

1 (b) “Group benefit plan” means any health care service plan  
2 contract provided pursuant to Article 3.1 (commencing with  
3 Section 1357) to an employer with 2 to 19 eligible employees, as  
4 defined in Section 1357, as well as a specialized health care service  
5 plan contract provided to an employer with 2 to 19 eligible  
6 employees, as defined in Section 1357.

7 (c) “Qualified beneficiary” means any individual who, on the  
8 day before the qualifying event, is an enrollee in a group benefit  
9 plan offered by a health care service plan pursuant to Article 3.1  
10 (commencing with Section 1357) and has a qualifying event, as  
11 defined in subdivision (d). *For purposes of eligibility for the*  
12 *premium assistance under paragraph (1) of subdivision (a) of*  
13 *Section 3001 of Title III of Division B of the American Recovery*  
14 *and Reinvestment Act of 2009 (Public Law 111-5), a “qualified*  
15 *beneficiary” also includes any individual who was or is eligible*  
16 *for continuation coverage as a result of the involuntary termination*  
17 *of the covered employee’s employment during the period that*  
18 *begins with September 1, 2008, and ends with December 31, 2009,*  
19 *elects continuation coverage, and meets the definition of “qualified*  
20 *beneficiary” set forth in paragraph (3) of Section 1167 of Title 29*  
21 *of the United States Code, as used in subparagraph (E) of*  
22 *paragraph (1) of subdivision (a) of Section 3001 of Title III of*  
23 *Division B of the American Recovery and Reinvestment Act of*  
24 *2009 (Public Law 111-5).*

25 (d) “Qualifying event” means any of the following events that,  
26 but for the election of continuation coverage under this article,  
27 would result in a loss of coverage under the group benefit plan to  
28 a qualified beneficiary:

29 (1) The death of the covered employee.

30 (2) The termination of employment or reduction in hours of  
31 the covered employee’s employment, except that termination for  
32 gross misconduct does not constitute a qualifying event.

33 (3) The divorce or legal separation of the covered employee  
34 from the covered employee’s spouse.

35 (4) The loss of dependent status by a dependent enrolled in the  
36 group benefit plan.

37 (5) With respect to a covered dependent only, the covered  
38 employee’s entitlement to benefits under Title XVIII of the United  
39 States Social Security Act (Medicare).

(e) “Employer” means any employer that meets the definition of “small employer” as set forth in Section 1357 and (1) employed 2 to 19 eligible employees on at least 50 percent of its working days during the preceding calendar year, or, if the employer was not in business during any part of the preceding calendar year, employed 2 to 19 eligible employees on at least 50 percent of its working days during the preceding calendar quarter, (2) has contracted for health care coverage through a group benefit plan offered by a health care service plan, and (3) is not subject to Section 4980B of the United States Internal Revenue Code or Chapter 18 of the Employee Retirement Income Security Act, 29 U.S.C. Section 1161 et seq.

(f) “Core coverage” means coverage of basic health care services, as defined in subdivision (b) of Section 1345, and other hospital, medical, or surgical benefits provided by the group benefit plan that a qualified beneficiary was receiving immediately prior to the qualifying event, other than noncore coverage.

(g) “Noncore coverage” means coverage for vision and dental care.

*SEC. 3. Section 1366.22 of the Health and Safety Code is amended to read:*

1366.22. The continuation coverage requirements of this article do not apply to the following individuals:

(a) Individuals who are entitled to Medicare benefits or become entitled to Medicare benefits pursuant to Title XVIII of the United States Social Security Act, as amended or superseded. Entitlement to Medicare Part A only constitutes entitlement to benefits under Medicare.

(b) Individuals who have other hospital, medical, or surgical coverage or who are covered or become covered under another group benefit plan, including a self-insured employee welfare benefit plan, that provides coverage for individuals and that does not impose any exclusion or limitation with respect to any preexisting condition of the individual, other than a preexisting condition limitation or exclusion that does not apply to or is satisfied by the qualified beneficiary pursuant to Sections 1357 and 1357.06. A group conversion option under any group benefit plan shall not be considered as an arrangement under which an individual is or becomes covered.

1 (c) Individuals who are covered, become covered, or are eligible  
2 for federal COBRA coverage pursuant to Section 4980B of the  
3 United States Internal Revenue Code or Chapter 18 of the  
4 Employee Retirement Income Security Act, 29 U.S.C. Section  
5 1161 et seq.

6 (d) Individuals who are covered, become covered, or are eligible  
7 for coverage pursuant to Chapter 6A of the Public Health Service  
8 Act, 42 U.S.C. Section 300bb-1 et seq.

9 (e) Qualified beneficiaries who fail to meet the requirements of  
10 subdivision (b) of Section 1366.24 regarding notification of a  
11 qualifying event or election of continuation coverage within the  
12 specified time limits, *except as provided in subdivision (g) of*  
13 *Section 1366.24.*

14 (f) Qualified beneficiaries who fail to submit the correct  
15 premium amount required by subdivision (b) of Section 1366.24  
16 and Section 1366.26, in accordance with the terms and conditions  
17 of the plan contract, or fail to satisfy other terms and conditions  
18 of the plan contract.

19 *SEC. 4. Section 1366.24 of the Health and Safety Code is*  
20 *amended to read:*

21 1366.24. (a) Every health care service plan evidence of  
22 coverage, provided for group benefit plans subject to this article,  
23 that is issued, amended, or renewed on or after January 1, 1999,  
24 shall disclose to covered employees of group benefit plans subject  
25 to this article the ability to continue coverage pursuant to this  
26 article, as required by this section.

27 (b) This disclosure shall state that all enrollees who are eligible  
28 to be qualified beneficiaries, as defined in subdivision (c) of  
29 Section 1366.21, shall be required, as a condition of receiving  
30 benefits pursuant to this article, to notify, in writing, the health  
31 care service plan, or the employer if the employer contracts to  
32 perform the administrative services as provided for in Section  
33 1366.25, of all qualifying events as specified in paragraphs (1),  
34 (3), (4), and (5) of subdivision (d) of Section 1366.21 within 60  
35 days of the date of the qualifying event. This disclosure shall  
36 inform enrollees that failure to make the notification to the health  
37 care service plan, or to the employer when under contract to  
38 provide the administrative services, within the required 60 days  
39 will disqualify the qualified beneficiary from receiving continuation  
40 coverage pursuant to this article. The disclosure shall further state

1 that a qualified beneficiary who wishes to continue coverage under  
2 the group benefit plan pursuant to this article must request the  
3 continuation in writing and deliver the written request, by first-class  
4 mail, or other reliable means of delivery, including personal  
5 delivery, express mail, or private courier company, to the health  
6 care service plan, or to the employer if the plan has contracted  
7 with the employer for administrative services pursuant to  
8 subdivision (d) of Section 1366.25, within the 60-day period  
9 following the later of (1) the date that the enrollee's coverage under  
10 the group benefit plan terminated or will terminate by reason of a  
11 qualifying event, or (2) the date the enrollee was sent notice  
12 pursuant to subdivision (e) of Section 1366.25 of the ability to  
13 continue coverage under the group benefit plan. The disclosure  
14 required by this section shall also state that a qualified beneficiary  
15 electing continuation shall pay to the health care service plan, in  
16 accordance with the terms and conditions of the plan contract,  
17 which shall be set forth in the notice to the qualified beneficiary  
18 pursuant to subdivision (d) of Section 1366.25, the amount of the  
19 required premium payment, as set forth in Section 1366.26. The  
20 disclosure shall further require that the qualified beneficiary's first  
21 premium payment required to establish premium payment be  
22 delivered by first-class mail, certified mail, or other reliable means  
23 of delivery, including personal delivery, express mail, or private  
24 courier company, to the health care service plan, or to the employer  
25 if the employer has contracted with the plan to perform the  
26 administrative services pursuant to subdivision (d) of Section  
27 1366.25, within 45 days of the date the qualified beneficiary  
28 provided written notice to the health care service plan or the  
29 employer, if the employer has contracted to perform the  
30 administrative services, of the election to continue coverage in  
31 order for coverage to be continued under this article. This  
32 disclosure shall also state that the first premium payment must  
33 equal an amount sufficient to pay any required premiums and all  
34 premiums due, and that failure to submit the correct premium  
35 amount within the 45-day period will disqualify the qualified  
36 beneficiary from receiving continuation coverage pursuant to this  
37 article.

38 (c) The disclosure required by this section shall also describe  
39 separately how qualified beneficiaries whose continuation coverage  
40 terminates under a prior group benefit plan pursuant to subdivision

(b) of Section 1366.27 may continue their coverage for the balance of the period that the qualified beneficiary would have remained covered under the prior group benefit plan, including the requirements for election and payment. The disclosure shall clearly state that continuation coverage shall terminate if the qualified beneficiary fails to comply with the requirements pertaining to enrollment in, and payment of premiums to, the new group benefit plan within 30 days of receiving notice of the termination of the prior group benefit plan.

(d) Prior to August 1, 1998, every health care service plan shall provide to all covered employees of employers subject to this article a written notice containing the disclosures required by this section, or shall provide to all covered employees of employers subject to this section a new or amended evidence of coverage that includes the disclosures required by this section. Any specialized health care service plan that, in the ordinary course of business, maintains only the addresses of employer group purchasers of benefits and does not maintain addresses of covered employees, may comply with the notice requirements of this section through the provision of the notices to its employer group purchasers of benefits.

(e) Every plan disclosure form issued, amended, or renewed on and after January 1, 1999, for a group benefit plan subject to this article shall provide a notice that, under state law, an enrollee may be entitled to continuation of group coverage and that additional information regarding eligibility for this coverage may be found in the plan's evidence of coverage.

(f) Every disclosure issued, amended, or renewed on and after July 1, 2006, for a group benefit plan subject to this article shall include the following notice:

“Please examine your options carefully before declining this coverage. You should be aware that companies selling individual health insurance typically require a review of your medical history that could result in a higher premium or you could be denied coverage entirely.”

*(g) Notwithstanding subdivision (b), a qualified beneficiary may notify the health care service plan, or the employer if the plan has contracted with the employer for administrative services pursuant*



1 to subdivision (d) of Section 1366.25, of the qualified beneficiary's  
2 election to continue coverage no later than 60 days after receipt  
3 of the notice required under subdivision (g) of Section 1366.25 if  
4 the qualified beneficiary meets all of the following requirements:

5 (1) Receives a notice pursuant to subdivision (g) of Section  
6 1366.25.

7 (2) Became eligible for continuation coverage prior to the  
8 effective date of this subdivision.

9 (3) Is eligible for premium assistance under paragraph (1) of  
10 subdivision (a) of Section 3001 of Title III of Division B of the  
11 American Recovery and Reinvestment Act of 2009 (Public Law  
12 111-5).

13 (4) Failed to notify the health care service plan, or the employer  
14 if the plan has contracted with the employer for administrative  
15 services pursuant to subdivision (d) of Section 1366.25, within the  
16 60-day period following the later of the following:

17 (A) The date that the enrollee's coverage under the group benefit  
18 plan terminated or will terminate by reason of a qualifying event.

19 (B) The date the enrollee was sent notice pursuant to subdivision  
20 (e) of Section 1366.25 of the ability to continue coverage under  
21 the group benefit plan.

22 (h) With respect to a qualified beneficiary who elects to continue  
23 coverage pursuant to subdivision (g), the period beginning on the  
24 date of the qualifying event and ending on the effective date of the  
25 continuation coverage shall be disregarded for purposes of  
26 calculating a break in coverage in determining whether a  
27 preexisting condition provision applies under subdivision (c) of  
28 Section 1357.06 or subdivision (e) of Section 1357.51.

29 SEC. 5. Section 1366.25 of the Health and Safety Code is  
30 amended to read:

31 1366.25. (a) Every group contract between a health care  
32 service plan and an employer subject to this article that is issued,  
33 amended, or renewed on or after July 1, 1998, shall require the  
34 employer to notify the plan, in writing, of any employee who has  
35 had a qualifying event, as defined in paragraph (2) of subdivision  
36 (d) of Section 1366.21, within 30 days of the qualifying event. The  
37 group contract shall also require the employer to notify the plan,  
38 in writing, within 30 days of the date, when the employer becomes  
39 subject to Section 4980B of the United States Internal Revenue

1 Code or Chapter 18 of the Employee Retirement Income Security  
2 Act, 29 U.S.C. Sec. 1161 et seq.

3 (b) Every group contract between a plan and an employer subject  
4 to this article that is issued, amended, or renewed on or after July  
5 1, 1998, shall require the employer to notify qualified beneficiaries  
6 currently receiving continuation coverage, whose continuation  
7 coverage will terminate under one group benefit plan prior to the  
8 end of the period the qualified beneficiary would have remained  
9 covered, as specified in Section 1366.27, of the qualified  
10 beneficiary's ability to continue coverage under a new group  
11 benefit plan for the balance of the period the qualified beneficiary  
12 would have remained covered under the prior group benefit plan.  
13 This notice shall be provided either 30 days prior to the termination  
14 or when all enrolled employees are notified, whichever is later.

15 Every health care service plan and specialized health care service  
16 plan shall provide to the employer replacing a health care service  
17 plan contract issued by the plan, or to the employer's agent or  
18 broker representative, within 15 days of any written request,  
19 information in possession of the plan reasonably required to  
20 administer the notification requirements of this subdivision and  
21 subdivision (c).

22 (c) Notwithstanding subdivision (a), the group contract between  
23 the health care service plan and the employer shall require the  
24 employer to notify the successor plan in writing of the qualified  
25 beneficiaries currently receiving continuation coverage so that the  
26 successor plan, or contracting employer or administrator, may  
27 provide those qualified beneficiaries with the necessary premium  
28 information, enrollment forms, and instructions consistent with  
29 the disclosure required by subdivision (c) of Section 1366.24 and  
30 subdivision (e) of this section to allow the qualified beneficiary to  
31 continue coverage. This information shall be sent to all qualified  
32 beneficiaries who are enrolled in the plan and those qualified  
33 beneficiaries who have been notified, pursuant to Section 1366.24,  
34 of their ability to continue their coverage and may still elect  
35 coverage within the specified 60-day period. This information  
36 shall be sent to the qualified beneficiary's last known address, as  
37 provided to the employer by the health care service plan or  
38 disability insurer currently providing continuation coverage to the  
39 qualified beneficiary. The successor plan shall not be obligated to

1 provide this information to qualified beneficiaries if the employer  
2 or prior plan or insurer fails to comply with this section.

3 (d) A health care service plan may contract with an employer,  
4 or an administrator, to perform the administrative obligations of  
5 the plan as required by this article, including required notifications  
6 and collecting and forwarding premiums to the health care service  
7 plan. Except for the requirements of subdivisions (a), (b), and (c),  
8 this subdivision shall not be construed to permit a plan to require  
9 an employer to perform the administrative obligations of the plan  
10 as required by this article as a condition of the issuance or renewal  
11 of coverage.

12 (e) Every health care service plan, or employer or administrator  
13 that contracts to perform the notice and administrative services  
14 pursuant to this section, shall, within 14 days of receiving a notice  
15 of a qualifying event, provide to the qualified beneficiary the  
16 necessary benefits information, premium information, enrollment  
17 forms, and disclosures consistent with the notice requirements  
18 contained in subdivisions (b) and (c) of Section 1366.24 to allow  
19 the qualified beneficiary to formally elect continuation coverage.  
20 This information shall be sent to the qualified beneficiary's last  
21 known address.

22 (f) Every health care service plan, or employer or administrator  
23 that contracts to perform the notice and administrative services  
24 pursuant to this section, shall, during the 180-day period ending  
25 on the date that continuation coverage is terminated pursuant to  
26 paragraphs (1), (3), and (5) of subdivision (a) of Section 1366.27,  
27 notify a qualified beneficiary who has elected continuation  
28 coverage pursuant to this article of the date that his or her coverage  
29 will terminate, and shall notify the qualified beneficiary of any  
30 conversion coverage available to that qualified beneficiary. This  
31 requirement shall not apply when the continuation coverage is  
32 terminated because the group contract between the plan and the  
33 employer is being terminated.

34 (g) *For every qualified beneficiary eligible for premium*  
35 *assistance under paragraph (1) of subdivision (a) of Section 3001*  
36 *of Title III of Division B of the American Recovery and*  
37 *Reinvestment Act of 2009 (Public Law 111-5), every health care*  
38 *service plan, or employer or administrator that contracts to*  
39 *perform the notice and administrative services pursuant to this*  
40 *section, shall provide notice to the qualified beneficiary of the*

1 *qualified beneficiary's ability to elect continuation coverage no*  
2 *later than 60 days after receipt of that notice. This notice shall be*  
3 *provided within 14 days of the effective date of this subdivision*  
4 *and shall inform the qualified beneficiary of the availability of*  
5 *premium assistance in the amount of 65 percent of the premium*  
6 *under subdivision (a) of Section 3001 of Title III of Division B of*  
7 *the American Recovery and Reinvestment Act of 2009 (Public Law*  
8 *111-5), and the duration of the premium assistance as provided*  
9 *by paragraph (2) of subdivision (a) of Section 3001 of Title III of*  
10 *Division B of the American Recovery and Reinvestment Act of*  
11 *2009 (Public Law 111-5). The notice shall use language that*  
12 *adequately informs a reasonable person that changes in federal*  
13 *law permit employees involuntarily terminated between September*  
14 *1, 2008, and December 31, 2009, to qualify for a 65 percent*  
15 *subsidy of Cal-COBRA premiums for up to nine months, and that*  
16 *any eligible employee who had previously rejected Cal-COBRA*  
17 *has the right under California law to withdraw that rejection and*  
18 *accept the coverage with the new subsidy. The notice shall also*  
19 *provide the qualified beneficiary with all necessary premium*  
20 *information, enrollment forms, and disclosures consistent with the*  
21 *notice requirements contained in subdivisions (b) and (c) of Section*  
22 *1366.24 to allow the qualified beneficiary to formally elect*  
23 *continuation coverage. This information shall be sent to the*  
24 *qualified beneficiary's last known address.*

25 *(h) A health care service plan that receives an election notice*  
26 *from a qualified beneficiary eligible for premium assistance under*  
27 *paragraph (1) of subdivision (a) of Section 3001 of Title III of*  
28 *Division B of the American Recovery and Reinvestment Act of*  
29 *2009 (Public Law 111-5) shall be considered a person entitled to*  
30 *reimbursement, as defined in Section 6432(b)(3) of the Internal*  
31 *Revenue Code, as amended by paragraph (12) of subdivision (a)*  
32 *of Section 3001 of Title III of Division B of the American Recovery*  
33 *and Reinvestment Act of 2009 (Public Law 111-5).*

34 *SEC. 6. Section 10128.50 of the Insurance Code is amended*  
35 *to read:*

36 *10128.50. (a) This article shall be known as the California*  
37 *Continuation Benefits Replacement Act, or "Cal-COBRA."*

38 *(b) It is the intent of the Legislature that continued access to*  
39 *health insurance coverage is provided to employees, and their*  
40 *dependents, of employers with 2 to 19 eligible employees who are*

1 not currently offered continuation coverage under the Consolidated  
2 Omnibus Budget Reconciliation Act of 1985.

3 (c) *It is the intent of the Legislature that any federal assistance*  
4 *that is or may become available to qualified beneficiaries under*  
5 *this article be effectively and promptly implemented by the*  
6 *department.*

7 (d) *The commissioner may adopt emergency regulations to*  
8 *implement this article in accordance with Chapter 3.5*  
9 *(commencing with Section 11340) of Part 1 of Division 3 of Title*  
10 *2 of the Government Code by making a finding of emergency and*  
11 *demonstrating the need for immediate action in the event that any*  
12 *federal assistance is or becomes available to qualified beneficiaries*  
13 *under this article. The adoption of these regulations shall be*  
14 *considered by the Office of Administrative Law to be necessary to*  
15 *avoid serious harm to the public peace, health, safety, or general*  
16 *welfare.*

17 SEC. 7. *Section 10128.51 of the Insurance Code is amended*  
18 *to read:*

19 10128.51. (a) “Continuation coverage” means extended  
20 coverage under the group benefit plan under which an eligible  
21 employee or eligible dependent is currently covered, or, in the case  
22 of a termination of the group benefit plan or an employer open  
23 enrollment period, extended coverage under the group benefit plan  
24 currently offered by the employer.

25 (b) “Group benefit plan” has the same meaning as “health benefit  
26 plan” defined in Section 10700, including group policies of  
27 vision-only and dental-only coverage, provided pursuant to Chapter  
28 8 (commencing with Section 10700) to an employer with 2 to 19  
29 eligible employees, as defined in Section 10700.

30 (c) “Qualified beneficiary” means any individual who, on the  
31 day before the qualifying event, is covered under a group benefit  
32 plan offered by a disability insurer pursuant to Article 1  
33 (commencing with Section 10700) of Chapter 8, and has a  
34 qualifying event, as defined in subdivision (d). *For purposes of*  
35 *eligibility for the premium assistance under paragraph (1) of*  
36 *subdivision (a) of Section 3001 of Title III of Division B of the*  
37 *American Recovery and Reinvestment Act of 2009 (Public Law*  
38 *111-5), a “qualified beneficiary” also includes any individual who*  
39 *was or is eligible for continuation coverage as a result of the*  
40 *involuntary termination of the covered employee’s employment*

1 *during the period that begins with September 1, 2008, and ends*  
2 *with December 31, 2009, elects continuation coverage, and meets*  
3 *the definition of “qualified beneficiary” set forth in paragraph (3)*  
4 *of Section 1167 of Title 29 of the United States Code, as used in*  
5 *subparagraph (E) of paragraph (1) of subdivision (a) of Section*  
6 *3001 of Title III of Division B of the American Recovery and*  
7 *Reinvestment Act of 2009 (Public Law 111-5).*

8 (d) “Qualifying event” means any of the following events that,  
9 but for the election of continuation coverage under this article,  
10 would result in a loss of coverage under the group benefit plan to  
11 a qualified beneficiary:

12 (1) The death of the covered employee.

13 (2) The termination of employment or reduction in hours of the  
14 covered employee’s employment, except that termination for gross  
15 misconduct does not constitute a qualifying event.

16 (3) The divorce or legal separation of the covered employee  
17 from the covered employee’s spouse.

18 (4) The loss of dependent status by a dependent enrolled in the  
19 group benefit plan.

20 (5) With respect to a covered dependent only, the covered  
21 employee’s entitlement to benefits under Title XVIII of the United  
22 States Social Security Act (Medicare).

23 (e) “Employer” means any employer that meets the definition  
24 of “small employer” as set forth in Section 10700 and (1) employed  
25 2 to 19 eligible employees on at least 50 percent of its working  
26 days during the preceding calendar year, or, if the employer was  
27 not in business during any part of the preceding calendar year,  
28 employed 2 to 19 eligible employees on at least 50 percent of its  
29 working days during the preceding calendar quarter, (2) has  
30 contracted for health care coverage through a group benefit plan  
31 offered by a disability insurer, and (3) is not subject to Section  
32 4980B of the United States Internal Revenue Code or Chapter 18  
33 of the Employee Retirement Income Security Act, 29 U.S.C.  
34 Section 1161 et seq.

35 (f) “Core coverage” means coverage for hospital, medical, or  
36 surgical benefits provided under the group benefit plan that a  
37 qualified beneficiary was receiving immediately prior to the  
38 qualifying event, other than noncore coverage.

39 (g) “Noncore coverage” means coverage for vision and dental  
40 care.

1     *SEC. 8. Section 10128.52 of the Insurance Code is amended*  
2     *to read:*

3     10128.52. The continuation coverage requirements of this  
4     article do not apply to the following individuals:

5     (a) Individuals who are entitled to Medicare benefits or become  
6     entitled to Medicare benefits pursuant to Title XVIII of the United  
7     States Social Security Act, as amended or superseded. Entitlement  
8     to Medicare Part A only constitutes entitlement to benefits under  
9     Medicare.

10    (b) Individuals who have other hospital, medical, or surgical  
11    coverage, or who are covered or become covered under another  
12    group benefit plan, including a self-insured employee welfare  
13    benefit plan, that provides coverage for individuals and that does  
14    not impose any exclusion or limitation with respect to any  
15    preexisting condition of the individual, other than a preexisting  
16    condition limitation or exclusion that does not apply to or is  
17    satisfied by the qualified beneficiary pursuant to Sections 10198.6  
18    and 10198.7. A group conversion option under any group benefit  
19    plan shall not be considered as an arrangement under which an  
20    individual is or becomes covered.

21    (c) Individuals who are covered, become covered, or are eligible  
22    for federal COBRA coverage pursuant to Section 4980B of the  
23    United States Internal Revenue Code or Chapter 18 of the  
24    Employee Retirement Income Security Act, 29 U.S.C. Section  
25    1161 et seq.

26    (d) Individuals who are covered, become covered, or are eligible  
27    for coverage pursuant to Chapter 6A of the Public Health Service  
28    Act, 42 U.S.C. Section 300bb-1 et seq.

29    (e) Qualified beneficiaries who fail to meet the requirements of  
30    subdivision (b) of Section 10128.55 regarding notification of a  
31    qualifying event or election of continuation coverage within the  
32    specified time limits, *except as provided in subdivision (g) of*  
33    *Section 10128.54.*

34    (f) Qualified beneficiaries who fail to submit the correct  
35    premium amount required by subdivision (b) of Section 10128.55  
36    and Section 10128.57, in accordance with the terms and conditions  
37    of the policy or contract, or fail to satisfy other terms and  
38    conditions of the policy or contract.

39    *SEC. 9. Section 10128.54 of the Insurance Code is amended*  
40    *to read:*

1     10128.54. (a) Every insurer's evidence of coverage for group  
2 benefit plans subject to this article, that is issued, amended, or  
3 renewed on or after January 1, 1999, shall disclose to covered  
4 employees of group benefit plans subject to this article the ability  
5 to continue coverage pursuant to this article, as required by this  
6 section.

7     (b) This disclosure shall state that all insureds who are eligible  
8 to be qualified beneficiaries, as defined in subdivision (c) of  
9 Section 10128.51, shall be required, as a condition of receiving  
10 benefits pursuant to this article, to notify, in writing, the insurer,  
11 or the employer if the employer contracts to perform the  
12 administrative services as provided for in Section 10128.55, of all  
13 qualifying events as specified in paragraphs (1), (3), (4), and (5)  
14 of subdivision (d) of Section 10128.51 within 60 days of the date  
15 of the qualifying event. This disclosure shall inform insureds that  
16 failure to make the notification to the insurer, or to the employer  
17 when under contract to provide the administrative services, within  
18 the required 60 days will disqualify the qualified beneficiary from  
19 receiving continuation coverage pursuant to this article. The  
20 disclosure shall further state that a qualified beneficiary who wishes  
21 to continue coverage under the group benefit plan pursuant to this  
22 article must request the continuation in writing and deliver the  
23 written request, by first-class mail, or other reliable means of  
24 delivery, including personal delivery, express mail, or private  
25 courier company, to the disability insurer, or to the employer if  
26 the plan has contracted with the employer for administrative  
27 services pursuant to subdivision (d) of Section 10128.55, within  
28 the 60-day period following the later of (1) the date that the  
29 insured's coverage under the group benefit plan terminated or will  
30 terminate by reason of a qualifying event, or (2) the date the insured  
31 was sent notice pursuant to subdivision (e) of Section 10128.55  
32 of the ability to continue coverage under the group benefit plan.  
33 The disclosure required by this section shall also state that a  
34 qualified beneficiary electing continuation shall pay to the disability  
35 insurer, in accordance with the terms and conditions of the policy  
36 or contract, which shall be set forth in the notice to the qualified  
37 beneficiary pursuant to subdivision (d) of Section 10128.55, the  
38 amount of the required premium payment, as set forth in Section  
39 10128.56. The disclosure shall further require that the qualified  
40 beneficiary's first premium payment required to establish premium



1 payment be delivered by first-class mail, certified mail, or other  
2 reliable means of delivery, including personal delivery, express  
3 mail, or private courier company, to the disability insurer, or to  
4 the employer if the employer has contracted with the insurer to  
5 perform the administrative services pursuant to subdivision (d) of  
6 Section 10128.55, within 45 days of the date the qualified  
7 beneficiary provided written notice to the insurer or the employer,  
8 if the employer has contracted to perform the administrative  
9 services, of the election to continue coverage in order for coverage  
10 to be continued under this article. This disclosure shall also state  
11 that the first premium payment must equal an amount sufficient  
12 to pay all required premiums and all premiums due, and that failure  
13 to submit the correct premium amount within the 45-day period  
14 will disqualify the qualified beneficiary from receiving continuation  
15 coverage pursuant to this article.

16 (c) The disclosure required by this section shall also describe  
17 separately how qualified beneficiaries whose continuation coverage  
18 terminates under a prior group benefit plan pursuant to Section  
19 10128.57 may continue their coverage for the balance of the period  
20 that the qualified beneficiary would have remained covered under  
21 the prior group benefit plan, including the requirements for election  
22 and payment. The disclosure shall clearly state that continuation  
23 coverage shall terminate if the qualified beneficiary fails to comply  
24 with the requirements pertaining to enrollment in, and payment of  
25 premiums to, the new group benefit plan within 30 days of  
26 receiving notice of the termination of the prior group benefit plan.

27 (d) Prior to August 1, 1998, every insurer shall provide to all  
28 covered employees of employers subject to this article written  
29 notice containing the disclosures required by this section, or shall  
30 provide to all covered employees of employers subject to this  
31 article a new or amended evidence of coverage that includes the  
32 disclosures required by this section. Any insurer that, in the  
33 ordinary course of business, maintains only the addresses of  
34 employer group purchasers of benefits, and does not maintain  
35 addresses of covered employees, may comply with the notice  
36 requirements of this section through the provision of the notices  
37 to its employer group purchases of benefits.

38 (e) Every disclosure form issued, amended, or renewed on and  
39 after January 1, 1999, for a group benefit plan subject to this article  
40 shall provide a notice that, under state law, an insured may be

1 entitled to continuation of group coverage and that additional  
2 information regarding eligibility for this coverage may be found  
3 in the evidence of coverage.

4 (f) Every disclosure form issued, amended, or renewed on and  
5 after July 1, 2006, for a group benefit plan subject to this article  
6 shall include the following notice:

7  
8 “Please examine your options carefully before declining this  
9 coverage. You should be aware that companies selling individual  
10 health insurance typically require a review of your medical history  
11 that could result in a higher premium or you could be denied  
12 coverage entirely.”

13  
14 (g) *Notwithstanding subdivision (b), a qualified beneficiary may*  
15 *notify the insurer, or the employer if the plan has contracted with*  
16 *the employer for administrative services pursuant to subdivision*  
17 *(d) of Section 10128.55, of the qualified beneficiary’s election to*  
18 *continue coverage no later than 60 days after receipt of the notice*  
19 *required under subdivision (g) of Section 10128.55 if the qualified*  
20 *beneficiary meets all of the following requirements:*

21 (1) *Receives a notice pursuant to subdivision (g) of Section*  
22 *10128.55.*

23 (2) *Became eligible for continuation coverage prior to the*  
24 *effective date of this subdivision.*

25 (3) *Is eligible for premium assistance under paragraph (1) of*  
26 *subdivision (a) of Section 3001 of Title III of Division B of the*  
27 *American Recovery and Reinvestment Act of 2009 (Public Law*  
28 *111-5).*

29 (4) *Failed to notify the insurer, or the employer if the plan has*  
30 *contracted with the employer for administrative services pursuant*  
31 *to subdivision (d) of Section 10128.55, within the 60-day period*  
32 *following the later of the following:*

33 (A) *The date that the insured’s coverage under the group benefit*  
34 *plan terminated or will terminate by reason of a qualifying event.*

35 (B) *The date the insured was sent notice pursuant to subdivision*  
36 *(e) of Section 10128.55 of the ability to continue coverage under*  
37 *the group benefit plan.*

38 (h) *With respect to a qualified beneficiary who elects to continue*  
39 *coverage pursuant to subdivision (g), the period beginning on the*  
40 *date of the qualifying event and ending on the effective date of the*

1 *continuation coverage shall be disregarded for purposes of*  
2 *calculating a break in coverage in determining whether a*  
3 *preexisting condition provision applies under subdivision (e) of*  
4 *Section 10198.7 or subdivision (c) of Section 10708.*

5 *SEC. 10. Section 10128.55 of the Insurance Code is amended*  
6 *to read:*

7 10128.55. (a) Every group benefit plan contract between a  
8 disability insurer and an employer subject to this article that is  
9 issued, amended, or renewed on or after July 1, 1998, shall require  
10 the employer to notify the insurer in writing of any employee who  
11 has had a qualifying event, as defined in paragraph (2) of  
12 subdivision (d) of Section 10128.51, within 30 days of the  
13 qualifying event. The group contract shall also require the employer  
14 to notify the insurer, in writing, within 30 days of the date when  
15 the employer becomes subject to Section 4980B of the United  
16 States Internal Revenue Code or Chapter 18 of the Employee  
17 Retirement Income Security Act, 29 U.S.C. Sec. 1161 et seq.

18 (b) Every group benefit plan contract between a disability insurer  
19 and an employer subject to this article that is issued, amended, or  
20 renewed after July 1, 1998, shall require the employer to notify  
21 qualified beneficiaries currently receiving continuation coverage,  
22 whose continuation coverage will terminate under one group  
23 benefit plan prior to the end of the period the qualified beneficiary  
24 would have remained covered, as specified in Section 10128.57,  
25 of the qualified beneficiary's ability to continue coverage under a  
26 new group benefit plan for the balance of the period the qualified  
27 beneficiary would have remained covered under the prior group  
28 benefit plan. This notice shall be provided either 30 days prior to  
29 the termination or when all enrolled employees are notified,  
30 whichever is later.

31 Every disability insurer shall provide to the employer replacing  
32 a group benefit plan policy issued by the insurer, or to the  
33 employer's agent or broker representative, within 15 days of any  
34 written request, information in possession of the insurer reasonably  
35 required to administer the notification requirements of this  
36 subdivision and subdivision (c).

37 (c) Notwithstanding subdivision (a), the group benefit plan  
38 contract between the insurer and the employer shall require the  
39 employer to notify the successor plan in writing of the qualified  
40 beneficiaries currently receiving continuation coverage so that the

1 successor plan, or contracting employer or administrator, may  
2 provide those qualified beneficiaries with the necessary premium  
3 information, enrollment forms, and instructions consistent with  
4 the disclosure required by subdivision (c) of Section 10128.54 and  
5 subdivision (e) of this section to allow the qualified beneficiary to  
6 continue coverage. This information shall be sent to all qualified  
7 beneficiaries who are enrolled in the group benefit plan and those  
8 qualified beneficiaries who have been notified, pursuant to Section  
9 10128.54 of their ability to continue their coverage and may still  
10 elect coverage within the specified 60-day period. This information  
11 shall be sent to the qualified beneficiary's last known address, as  
12 provided to the employer by the health care service plan or,  
13 disability insurer currently providing continuation coverage to the  
14 qualified beneficiary. The successor insurer shall not be obligated  
15 to provide this information to qualified beneficiaries if the  
16 employer or prior insurer or health care service plan fails to comply  
17 with this section.

18 (d) A disability insurer may contract with an employer, or an  
19 administrator, to perform the administrative obligations of the plan  
20 as required by this article, including required notifications and  
21 collecting and forwarding premiums to the insurer. Except for the  
22 requirements of subdivisions (a), (b), and (c), this subdivision shall  
23 not be construed to permit an insurer to require an employer to  
24 perform the administrative obligations of the insurer as required  
25 by this article as a condition of the issuance or renewal of coverage.

26 (e) Every insurer, or employer or administrator that contracts  
27 to perform the notice and administrative services pursuant to this  
28 section, shall, within 14 days of receiving a notice of a qualifying  
29 event, provide to the qualified beneficiary the necessary premium  
30 information, enrollment forms, and disclosures consistent with the  
31 notice requirements contained in subdivisions (b) and (c) of Section  
32 10128.54 to allow the qualified beneficiary to formally elect  
33 continuation coverage. This information shall be sent to the  
34 qualified beneficiary's last known address.

35 (f) Every insurer, *or* employer or administrator that contracts  
36 to perform the notice and administrative services pursuant to this  
37 section, shall, during the 180-day period ending on the date that  
38 continuation coverage is terminated pursuant to paragraphs (1),  
39 (3), and (5) of subdivision (a) of Section 10128.57, notify a  
40 qualified beneficiary who has elected continuation coverage

pursuant to this article of the date that his or her coverage will terminate, and shall notify the qualified beneficiary of any conversion coverage available to that qualified beneficiary. This requirement shall not apply when the continuation coverage is terminated because the group contract between the insurer and the employer is being terminated.

(g) *For every qualified beneficiary eligible for premium assistance under paragraph (1) of subdivision (a) of Section 3001 of Title III of Division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), every insurer, or employer or administrator that contracts to perform the notice and administrative services pursuant to this section, shall provide notice to the qualified beneficiary of the qualified beneficiary's ability to elect continuation coverage no later than 60 days after receipt of that notice. This notice shall be provided within 14 days of the effective date of this subdivision and shall inform the qualified beneficiary of the availability of premium assistance in the amount of 65 percent of the premium under subdivision (a) of Section 3001 of Title III of Division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), and the duration of the premium assistance as provided by paragraph (2) of subdivision (a) of Section 3001 of Title III of Division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5). The notice shall use language that adequately informs a reasonable person that changes in federal law permit employees involuntarily terminated between September 1, 2008, and December 31, 2009, to qualify for a 65 percent subsidy of Cal-COBRA premiums for up to nine months, and that any eligible employee who had previously rejected Cal-COBRA has the right under California law to withdraw that rejection and accept the coverage with the new subsidy. The notice shall also provide the qualified beneficiary with all necessary premium information, enrollment forms, and disclosures consistent with the notice requirements contained in subdivisions (b) and (c) of Section 10128.54 to allow the qualified beneficiary to formally elect continuation coverage. This information shall be sent to the qualified beneficiary's last known address.*

(h) *An insurer that receives an election notice from a qualified beneficiary eligible for premium assistance under paragraph (1) of subdivision (a) of Section 3001 of Title III of Division B of the*

1 *American Recovery and Reinvestment Act of 2009 (Public Law*  
2 *111-5) shall be considered a person entitled to reimbursement, as*  
3 *defined in Section 6432(b)(3) of the Internal Revenue Code, as*  
4 *amended by paragraph (12) of subdivision (a) of Section 3001 of*  
5 *Title III of Division B of the American Recovery and Reinvestment*  
6 *Act of 2009 (Public Law 111-5).*

7 *SEC. 11. No reimbursement is required by this act pursuant*  
8 *to Section 6 of Article XIII B of the California Constitution because*  
9 *the only costs that may be incurred by a local agency or school*  
10 *district will be incurred because this act creates a new crime or*  
11 *infraction, eliminates a crime or infraction, or changes the penalty*  
12 *for a crime or infraction, within the meaning of Section 17556 of*  
13 *the Government Code, or changes the definition of a crime within*  
14 *the meaning of Section 6 of Article XIII B of the California*  
15 *Constitution.*

16 ~~SECTION 1. Section 14005.25 of the Welfare and Institutions~~  
17 ~~Code, as amended by Section 27 of Chapter 758 of the Statutes of~~  
18 ~~2008, is amended to read:~~

19 ~~14005.25. (a) To the extent federal financial participation is~~  
20 ~~available, the department shall exercise the option under Section~~  
21 ~~1902(e)(12) of the federal Social Security Act (42 U.S.C. Sec.~~  
22 ~~1396a(e)(12)) to extend continuous eligibility to children 19 years~~  
23 ~~of age and younger. A child shall remain eligible pursuant to this~~  
24 ~~subdivision from the date of a determination of eligibility for~~  
25 ~~Medi-Cal benefits until the earlier of either:~~

26 ~~(1) The end of a 12-month period following the eligibility~~  
27 ~~determination.~~

28 ~~(2) The date the individual exceeds the age of 19 years.~~

29 ~~(b) This section shall be implemented only if, and to the extent~~  
30 ~~that, federal financial participation is available.~~

31 ~~(c) Notwithstanding Chapter 3.5 (commencing with Section~~  
32 ~~11340) of Part 1 of Division 3 of Title 2 of the Government Code,~~  
33 ~~the department shall, without taking regulatory action, implement~~  
34 ~~this section by means of all county letters or similar instructions.~~  
35 ~~Thereafter, the department shall adopt regulations in accordance~~  
36 ~~with the requirements of Chapter 3.5 (commencing with Section~~  
37 ~~11340) of Part 1 of Division 3 of Title 2 of the Government Code.~~

38 ~~SEC. 2. Section 14005.25 of the Welfare and Institutions Code,~~  
39 ~~as added by Section 28 of Chapter 758 of the Statutes of 2008, is~~  
40 ~~repealed.~~

1     ~~SEC. 3.—Section 14011.16 of the Welfare and Institutions Code~~  
2 ~~is amended to read:~~

3     ~~14011.16.—(a) Commencing August 1, 2003, the department~~  
4 ~~shall implement a requirement for beneficiaries to file semiannual~~  
5 ~~status reports as part of the department's procedures to ensure that~~  
6 ~~beneficiaries make timely and accurate reports of any change in~~  
7 ~~circumstance that may affect their eligibility. The department shall~~  
8 ~~develop a simplified form to be used for this purpose. The~~  
9 ~~department shall explore the feasibility of using a form that allows~~  
10 ~~a beneficiary who has not had any changes to so indicate by~~  
11 ~~checking a box and signing and returning the form.~~

12     ~~(b) Beneficiaries who have been granted continuous eligibility~~  
13 ~~under Section 14005.25 shall not be required to submit semiannual~~  
14 ~~status reports. To the extent federal financial participation is~~  
15 ~~available, all children under 19 years of age shall be exempt from~~  
16 ~~the requirement to submit semiannual status reports.~~

17     ~~(c) Beneficiaries whose eligibility is based on a determination~~  
18 ~~of disability or on their status as aged or blind shall be exempt~~  
19 ~~from the semiannual status report requirement described in~~  
20 ~~subdivision (a). The department may exempt other groups from~~  
21 ~~the semiannual status report requirement as necessary for simplicity~~  
22 ~~of administration.~~

23     ~~(d) When a beneficiary has completed, signed, and filed a~~  
24 ~~semiannual status report that indicated a change in circumstance,~~  
25 ~~eligibility shall be redetermined.~~

26     ~~(e) Notwithstanding Chapter 3.5 (commencing with Section~~  
27 ~~11340) of Part 1 of Division 3 of Title 2 of the Government Code,~~  
28 ~~the department shall implement this section by means of all county~~  
29 ~~letters or similar instructions without taking regulatory action.~~  
30 ~~Thereafter, the department shall adopt regulations in accordance~~  
31 ~~with the requirements of Chapter 3.5 (commencing with Section~~  
32 ~~11340) of Part 1 of Division 3 of Title 2 of the Government Code.~~

33     ~~(f) This section shall be implemented only if and to the extent~~  
34 ~~federal financial participation is available.~~

35     ~~SEC. 4.—Section 14011.18 of the Welfare and Institutions Code~~  
36 ~~is repealed.~~